

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 16

HOUSE BILL 2306

AN ACT

AMENDING SECTION 36-601, ARIZONA REVISED STATUTES; RELATING TO HEALTH
MENACES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-601, Arizona Revised Statutes, is amended to
3 read:

4 36-601. Public nuisances dangerous to public health

5 A. The following conditions are specifically declared public nuisances
6 dangerous to the public health:

7 1. Any condition or place in populous areas ~~which~~ THAT constitutes a
8 breeding place for flies, rodents, mosquitoes and other insects ~~which~~ THAT
9 are capable of carrying and transmitting disease-causing organisms to any
10 person or persons OR ANY CONDITION OR PLACE THAT CONSTITUTES A FERAL COLONY
11 OF HONEYBEES THAT IS NOT CURRENTLY MAINTAINED BY A BEEKEEPER AND THAT POSES A
12 HEALTH OR SAFETY HAZARD TO THE PUBLIC.

13 2. Any spoiled or contaminated food or drink intended for human
14 consumption.

15 3. Any restaurant, food market, bakery or other place of business or
16 any vehicle where food is prepared, packed, processed, stored, transported,
17 sold or served to the public ~~which~~ THAT is not constantly maintained in a
18 sanitary condition.

19 4. Any place, condition or building THAT IS controlled or operated by
20 any governmental agency, ~~state or local, which~~ AND THAT is not maintained in
21 a sanitary condition.

22 5. All sewage, human excreta, wastewater, garbage or other organic
23 wastes deposited, stored, discharged or exposed so as to be a potential
24 instrument or medium in the transmission of disease to or between any person
25 or persons.

26 6. Any vehicle or container THAT IS used in the transportation of
27 garbage, human excreta or other organic material ~~which~~ AND THAT is defective
28 and allows leakage or spillage of contents.

29 7. The presence of ectoparasites such as bedbugs, lice, mites and
30 others in any place where sleeping accommodations are offered to the public.

31 8. The maintenance of any overflowing septic tank or cesspool, the
32 contents of which may be accessible to flies.

33 9. The pollution or contamination of any domestic waters.

34 10. The use of the so-called common drinking cup used for drinking
35 purposes by more than one person. ~~but This shall~~ PARAGRAPH DOES not apply
36 to receptacles properly washed and sanitized after each service.

37 11. The presence of common towels for use of the public in any public
38 or semipublic place unless properly washed and sanitized following each use.

39 12. Buildings or any parts ~~thereof which~~ OF BUILDINGS THAT are in a
40 filthy condition and ~~which~~ THAT may endanger the health of persons living in
41 the vicinity.

42 13. Spitting or urinating ~~upon~~ ON sidewalks, or floors or walls of a
43 public building or buildings used for public assemblage, or a building used
44 for manufacturing or industrial purposes, or ~~upon~~ ON the floors or platforms
45 or any part of a railroad or other public conveyance.

1 14. The use of the contents of privies, cesspools or septic tanks or
2 the use of sewage or sewage plant effluents for fertilizing or irrigation
3 purposes for crops or gardens except by specific approval of the department
4 of health services or the department of environmental quality.

5 15. The maintenance of public assemblage or places of assemblage
6 without providing adequate sanitary facilities. ~~but~~ Open surface privies
7 ~~shall be deemed~~ ARE adequate sanitary facilities if they are outside populous
8 areas and meet reasonable health requirements.

9 16. Hotels, tourist courts and other lodging establishments that are
10 not kept in a clean and sanitary condition, ~~or~~ for which suitable and
11 adequate toilet facilities are not provided.

12 17. The storage, collection, transportation, disposal and reclamation
13 of garbage, trash, rubbish, manure and other objectionable wastes other than
14 as provided and authorized by law ~~and rule~~.

15 18. Water, other than that used by irrigation, industrial or similar
16 systems for nonpotable purposes, THAT IS sold to the public, distributed to
17 the public or used in production, processing, storing, handling, servicing or
18 transportation of food and drink ~~which~~ AND THAT is unwholesome, poisonous or
19 contains deleterious or foreign substances or filth or disease causing
20 substances or organisms.

21 19. The emission of mercaptan in a concentration level ~~which~~ THAT
22 causes endangerment to the health or safety of any considerable number of
23 persons of a neighborhood or community.

24 20. The operation of an environmental laboratory in violation of
25 chapter 4.3, article 1 of this title.

26 B. ~~When~~ IF the director has reasonable cause to believe from
27 information furnished ~~him~~ TO THE DIRECTOR or from investigation made by ~~him~~
28 THE DIRECTOR that any person is maintaining a nuisance or engaging in any
29 practice contrary to the health laws ~~or rules~~ of ~~the~~ THIS state, ~~he~~ THE
30 DIRECTOR shall ~~forthwith~~ PROMPTLY serve ~~upon such~~ ON THAT person by certified
31 mail a cease and desist order requiring the person, ~~upon~~ ON receipt of the
32 order, ~~forthwith~~ PROMPTLY to cease and desist from ~~such~~ THAT act. Within
33 fifteen days after receipt of the order, the person to whom it is directed
34 may request the director to hold a hearing. The director, as soon as
35 practicable, shall hold a hearing, and if ~~he~~ THE DIRECTOR determines the
36 order is reasonable and just and that the practice engaged in is contrary to
37 the health laws ~~or rules~~ of ~~the~~ THIS state, the director shall order ~~such~~ THE
38 person to comply with the cease and desist order.

39 C. ~~Upon the failure or refusal of~~ IF a person FAILS OR REFUSES to
40 comply with the order of the director, or if a person to whom the order is
41 directed does not request a hearing and fails or refuses to comply with the
42 cease and desist order served by mail under ~~the provisions of~~ subsection B,
43 the director may file an action in the superior court in the county in which
44 a violation has occurred, restraining and enjoining the person from engaging

1 in further acts. The court shall proceed as in other actions for
2 injunctions.

3 D. Notwithstanding ~~the provisions of~~ subsection A, paragraph 19, the
4 emission of mercaptan as a by-product of a pesticide is not a nuisance when
5 IF applied according to state and federal restrictions.

6 E. Notwithstanding ~~the provisions of~~ subsection A, paragraph 3, a
7 restaurant that uses sawdust on the floors of its dining areas is not in
8 violation of this section or local health department sanitary rules if the
9 restaurant replaces the sawdust each day with clean sawdust and complies with
10 applicable standards for fire safety.

APPROVED BY THE GOVERNOR APRIL 10, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2007.